




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

JUL 27 2007

Mr. David K. Paylor, Director  
Department of Environmental Quality  
629 East Main Street  
Richmond, Virginia 23218

  
Dear Mr. Paylor:

The Virginia Department of Environmental (VADEQ) submitted two complete packages in support of amendments to its *State Water Control Board (9 VAC 25-260-30) Water Quality Standards* (WQS regulations) to the U.S. Environmental Protection Agency (EPA), which were received on May 29, 2007.<sup>1</sup> The VADEQ submitted these revisions for EPA review, pursuant to Section 303(c) (1) of the Clean Water Act (CWA) and 40 C.F.R. Part 131. The revisions to the Virginia WQS regulations consist of amendments to the Commonwealth's Antidegradation Policy, Section 9 VAC 25-260-30.3.c.(19) to (27), in which segments of the following streams, as specified in the regulations, are being designated as Exceptional State Waters (Tier 3): Blue Suck Branch, Downey Branch, North Branch Simpson Creek, Roberts Creek, Shady Mountain Creek, Cove Creek, Little Cove Creek, Rock Branch, and the North Fork of the Buffalo River. These segments, or portions of these segments, are located within the George Washington National Forest. EPA's regulation at 40 C.F.R. §131.12(a)(3) requires states to have a category of Tier 3 waters under the State's antidegradation policy. In today's action, EPA is approving the amendments as consistent with this regulation and the CWA.

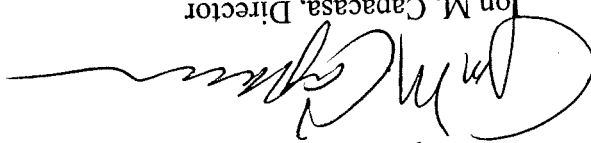
Under the Endangered Species Act (ESA), EPA has the obligation to determine if our approval of this modification to Virginia's Water Quality Standards regulation will adversely affect threatened and endangered listed species and their critical habitat in Virginia. However, in regards to Antidegradation, EPA has determined that it lacks relevant discretion to implement measures that would benefit listed species. Therefore, a consultation in this case is not required, as consistent with the ESA implementing regulation. See 50 C.F.R. Sections 402.03.

<sup>1</sup> The submissions by Virginia were deemed complete when EPA received Virginia's May 11, 2007 Letter of Certification by the Virginia Assistant Attorney General stating that the revisions were duly adopted pursuant to State law. See 40 C.F.R. 131.6.



If you have any questions concerning this letter please contact Ms. Cheryl Atkinson at (215) 814 3392.

Sincerely,



Jon M. Capacasa, Director  
Water Protection Division